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LETTER DATED 27 APRIL 1998 FROM THE PERMANENT REPRESENTATIVE OF IRAQ TO THE UNITED NATIONS ADDRESSED TO THE SECRETARY-GENERAL

On instructions from my Government, I have the honour to transmit to you herewith the text of a letter dated 24 April 1998 from Mr. Tariq Aziz, Deputy Prime Minister of Iraq, containing the observations of Iraq concerning the report by the Deputy Executive Chairman of the United Nations Special Commission (UNSCOM) which forms appendix III to the report of the Special Group on visits to presidential sites (S/1998/326).

I should be grateful if you would have the text of this letter and its annex circulated as a document of the Security Council.

(Signed) Nizar HAMDOON
Ambassador
Permanent Representative

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Annex

Letter dated 24 April 1998 from the Deputy Prime Minister of Iraq addressed to the Secretary-General

We have read the report of 15 April 1998 on the work of the Special Group on visits to presidential sites which was submitted to you by the President of the Security Council in accordance with paragraph 4 (c) of the Memorandum of Understanding concluded between the United Nations and Iraq on 23 February 1998.

On this occasion, I should like to recall that the Memorandum of Understanding was concluded in response to the desire of world public opinion for a political solution to a fabricated crisis relating to access to presidential sites which, according to allegations by the United States of America, the United Kingdom and the United Nations Special Commission (UNSCOM), contained production and storage facilities for chemical and biological weapons as well as equipment and components pertaining thereto. Paragraph 4 of the Memorandum of Understanding provides for special procedures for the verification of such allegations; under this arrangement, a Special Group of experts and diplomats established for this purpose and headed by a representative of the Secretary-General was to conduct an initial and subsequent entries into the presidential sites in accordance with the special procedures. Paragraph 3 of the Memorandum endeavours to strike a balance between the requirements of UNSCOM and the International Atomic Energy Agency (IAEA) in carrying out their work on the one hand and Iraq's legitimate concerns with regard to its security, sovereignty and dignity on the other, thus imposing reciprocal obligations on the two parties. These principles, in our view, ought to have been fully reflected in the report submitted by you. In this connection, I should like to express our views on the portion of the report prepared by Mr. Charles Duelfer, Deputy Executive Chairman of UNSCOM.

1. The main conclusion that can be drawn from the report by Mr. Duelfer, contained in appendix III of the Special Group's report and entitled "Initial entry to the presidential sites: summary report of the Head of the Team", is that there is no acknowledgement of the special nature of the presidential sites or of the special procedures provided for in the Memorandum of Understanding for initial and subsequent entry to the sites. This omission is clearly reflected in all paragraphs of the report, which are not in conformity with the provisions of the Memorandum of Understanding or the procedures established for its implementation.

In paragraph 1 of his report, the Deputy Executive Chairman describes the mission of the Special Group as though it were a normal task of the Special Commission, referring to it as mission UNSCOM-243. In many paragraphs of the report the work is described as "normal inspection", and no mention is made of the rules or procedures established for the work of the Special Group. This raises an important substantive issue. Instead of abiding by the concept of "initial and subsequent entries", as provided for in paragraph 4 of the Memorandum of Understanding, the report describes the mission as being "limited" and having threefold utility: firstly, to acquire a database that would allow UNSCOM and IAEA to conduct "more focused subsequent inspections, which would

support both ongoing monitoring tasks as well as searching for prohibited materials and related documents"; secondly, to allow inspectors to gain a much better understanding of the nature of the facilities in those areas, thereby helping to dispel many uncertainties and concerns; and, lastly, to set a precedent of access to the sites and the use of normal UNSCOM/IAEA inspection techniques (S/1998/326, appendix III, para. 10). This view of the situation completely contradicts the letter and the spirit of the Memorandum of Understanding and the immediate political context that led to its adoption. It is unacceptable to Iraq.

2. The report contains no conclusions at all regarding the allegations made concerning the presidential sites, in contrast to the report by IAEA submitted to the Security Council on 9 April 1998, which stated that the tasks carried out at the eight presidential sites revealed no immediate indications of the presence of prohibited materials or equipment, or of the conduct of prohibited activities with respect to the mandate of IAEA under the relevant Security Council resolutions. IAEA also noted that its experts worked as members of the Special Group, and not on their own. Together with members of UNSCOM, they took samples of soil, water, air and plants from the presidential sites with a view to analysing them and disseminating their findings. The results of these tests were to be transmitted directly to the Security Council so that the Council and the international community can learn the facts and thereby determine the extent of the lies that have been spread with regard to these sites with the participation of UNSCOM.

The fact that the results of these tests and the first-hand observations of the experts and diplomats were not disseminated is a ploy designed to divert attention away from the basic issue which underlies the fabrication of the crisis and to suppress the incontrovertible facts that became apparent during the visits to the presidential sites confirmed that there was absolutely nothing at the sites that had anything to do with the mandate of UNSCOM or Security Council resolutions. This ploy also represents an effort to cover up the lies told by UNSCOM itself and by certain well-known States with a view to keeping the matter ambiguous and unresolved.

3. Another key point of the report which gives cause for concern is the fact that the Deputy Executive Chairman of UNSCOM views the right of access to the presidential sites not as a right to be exercised within the context of the initial and subsequent entries to the sites, having due regard for their special nature, as stipulated in paragraphs 3 and 4 (b) of the Memorandum of Understanding, but as an absolute right to be exercised without any regard for these considerations. This is in complete contradiction to the provisions of the Memorandum of Understanding, the concern for balance reflected therein and the political context that led to its adoption.

4. The report contains a whole series of accusations and criticisms levelled at the Iraqi side, even though the author notes in paragraph 3 that cooperation was satisfactory:

(a) In paragraph 11, the report states that the mission was not intended to be a search for prohibited materials, and shortly afterwards it goes on to say that no such materials were found. However, paragraph 10 of the report states that UNSCOM inspection techniques were used in the course of the mission. This is a real contradiction.

(b) Among the accusations made in the report is the claim that the presidential sites had been largely evacuated, and that no sites outside Baghdad contained any documents or computers. These allegations fail to take into consideration the fact that seven of the sites were State guest houses, as well as the definition of the buildings on the sites, which is set out in the annex to the Memorandum of Understanding. The only presidential site where State offices are located did contain documents and computers, as noted in paragraph 8 of the report; some of these were verified, although such checks were not fully in keeping with the spirit of the Memorandum of Understanding. If the sites were emptied of their furniture, it was in anticipation that the threat of a military attack on them would be carried out. The evacuation took place during the crisis, as your representative, Mr. De Mistora, and the diplomats and journalists who had visited the sites prior to the conclusion of the Memorandum of Understanding were able to observe. Many official sites and buildings are evacuated this way under such circumstances.

(c) As for the slowing of work which, according to the report, was due to the extraordinarily large numbers of Iraqi escorts present at all times, we would note that these individuals were Iraqi experts who were the counterparts of the Special Group experts, staff from the sites who were required to be present in order to answer questions and facilitate access to all facilities located on the sites, and other officials responsible for security and providing the facilities demanded of Iraq.

(d) As for the time limits imposed on the mission, it will be recalled that the Special Group had fixed the duration of its mission, whereas in all its statements and earlier correspondence Iraq had stressed that during the initial visit, the Special Group should take all the time it needed to complete its work so that it could do a thorough job and thereby learn the truth about the nature of the sites. Although it had itself determined the date of entry, the Special Group managed in its visit to travel to all the sites and visit all facilities and buildings there, including all rooms and guard posts at the State guest houses.

The statements made in the report concerning the duration of the initial visit, which was voluntarily limited, in fact seek to give an incomplete picture of that visit, to gloss over the lies told about the sites and the number of facilities allegedly contained therein, and to prevent the situation from being resolved. This is made quite clear by Mr. Duelfer's report, which reveals the biased objectives of the Special Commission.

5. One of the most serious accusations made by Mr. Duelfer in his report is the claim that Iraq objected to the overflight and aerial photography, from helicopters, of the sites by UNSCOM and IAEA. The position taken by Iraq on this issue derives from legal and practical reasoning that UNSCOM and IAEA have accepted throughout the course of their work in Iraq since 1991. In all this

time UNSCOM helicopters have avoided overflying inhabited areas for fear of disturbing the population and because it was impossible to ensure their protection over such areas. Furthermore, the rules and methods for the inspection of sensitive sites agreed by Iraq and UNSCOM have meant in practical terms that helicopter flights over such areas are to be used only for observation with the naked eye and that no series of photographs of the sites are permitted except for photographs used to document suspected violations of a site's security. It was therefore impossible to accede to the Special Commission's request to allow helicopters to carry out comprehensive photography of all presidential sites, since those sites are even more sensitive for the country's security and sovereignty. Furthermore, the Special Commission already possess detailed aerial photographs of the presidential sites taken from U-2 aircraft, and the Special Group had full access to them during its visit. This shows that there is no need whatsoever for comprehensive photography by helicopter - if the Special Commission is in fact pursuing its stated objectives.

We have already conveyed all these concerns to you during our telephone conversations and through Mr. Danapala and your Representative, Mr. Prakash Shah. Yet the Special Commission insists on its position.

6. We should also like to draw your attention to certain new sources of concern which call for action on your part. It would in fact be helpful if you could intervene to forestall such problems and hold those responsible accountable. A number of experts from the Special Commission have drawn detailed plans of the interiors of many buildings as well as of the doors and windows of other buildings. Such activity can hardly be considered to constitute part of the work of the Special Commission and gives rise to serious security concerns. Moreover, it is difficult to believe that the use of global positioning system instruments for the accurate identification of buildings constitutes part of the conditions for determining the presence of prohibited material or activity rather than a means of gathering confidential information by hostile parties which is detrimental to the security of Iraq. Such activity, which is totally unrelated to the work of the Special Commission, arouses in us the same suspicions as those mentioned above. What is more, some of the Special Commission's experts asked questions, in a manner not unlike an interrogation, having to do with the identity of individuals and officials working in certain facilities, the means of communication used, and so forth. Such questions are for us a source of genuine concern and fear.

7. While Iraq has shown in practice that it has fully honoured its obligations under the Memorandum of Understanding, it is obvious that the Special Commission has, for its part, failed to live up to any of its commitments. The Memorandum of Understanding implies the application, by means of visits to the presidential sites, of special arrangements and procedures in order to expose the real nature of the allegations made regarding these sites as a whole and to bring to light the actual facts of the situation. And there is no doubt that the explanations and the selective presentation of facts given in the report of the Deputy Executive Chairman of UNSCOM which are aimed at steering the whole process away from its agreed course are entirely unacceptable. In bringing these key points to your attention it is our hope that you, in your capacity as a signatory to

the Memorandum of Understanding concluded with Iraq, will take the appropriate position to ensure that Iraq's legitimate concerns are taken duly into account and that all parties to the Memorandum of Understanding honour the obligations they have assumed under that instrument.

(Signed) Tariq AZIZ
Deputy Prime Minister